Moultrie Independent Telephone Company Exhibit 1.0

OFFICIAL FILE
DOCKET NO. 00-0233/0335
Moultrie Independent Telephone Co. 1.0
6/21/01

Direct Testimony

Of

Buz Wheeler

For Moultrie Independent Telephone Company

(ICC Consolidated Docket Nos. 00-0233 and 00-0335)

Q. Would you please state your name and business address?

A. My name is Buz Wheeler. My business address is 533 North Carson Street, Suite 4307, Carson City, NV 89706.

Q. In behalf of which company are you submitting this testimony?

A. This testimony is submitted in behalf of Moultrie Independent Telephone Company (Moultrie).

Q. What is your position with respect to Moultrie Independent Telephone Company?

A. I am the General Manager of Photonosys Systems, Inc., a telecommunications management think tank. As a consultant to Moultrie, I direct strategic planning and coordinate the preparation of cost analyses and related work for Moultrie for both state and federal regulatory proceedings.

Q. Have you prepared the Illinois Universal Service Funding calculations for Moultrie using the format agreed to by the Staff and the IITA?

A. Yes, in conjunction with Gridley Consulting Services, Inc. It is attached as Moultrie Independent Telephone Company Exhibit 1.0, Schedule 1.01, and consists of three pages.

Q. Would you please explain the process by which the Moultrie Independent Telephone Company Exhibit 1.0, Schedule 1.01, was completed?

A. Moultrie Independent Telephone Company Exhibit 1.0, Schedule 1.01, was completed in accordance with the instructions agreed upon by the IITA and ICC staff. It is based on Moultrie's ICC Form 23A filed by the Company with the Illinois Commerce Commission for the year ended December 31, 2000.

Q. Does page 1 of Moultrie Independent Telephone Company Exhibit 1.0, Schedule 1.01, contain any adjustments being proposed for Moultrie?

A. Yes, it does. An adjustment has been made to the Total Operating Revenues on line 14. The adjustment reflects the Staff/IITA Standard Adjustment #3, related to Out-of-Period Adjustments, and Standard Adjustment #5, related to Federal Funding, as explained in Mr. Schoonmaker's Supplemental Direct Testimony in IITA Exhibit 3, Attachment #3.

Q. Based on the responses and content of Moultrie Independent Telephone Company Exhibit 1.0, Schedule 1.01, is Moultrie providing the Staff with certain additional documents?

A. Yes. Staff will be provided with a copy of Moultrie Independent Telephone Company's December 31, 2000, Trial Balance, as well as the documents pertinent to Moultrie's affiliated interest transactions, under separate cover.

Q. Has Moultrie provided the requisite information from Moultrie Independent Telephone Company Exhibit 1.0, Schedule 1.01, to Mr. Schoonmaker for his use in compiling the composite results for all companies seeking funding in connection with his testimony?

A. Yes, Moultrie has provided that information to Mr. Schoonmaker.

Q. Is Moultrie Independent Telephone Company Exhibit 1.0, Schedule 1.01, true and correct to the best of your knowledge, information and belief?

A. Yes, it is.

Q. Would you please explain the adjustment in Moultrie's operating revenues?

A. Moultrie's adjustment reflects the exclusion of Federal support revenues withheld by NECA. With respect to its business operations, Moultrie is a party in affiliated interest transactions. Moultrie has refused to certify, under Title 18 USC, cost studies prepared in accordance with FCC regulations that yield fictitious results. Moultrie provided cost studies that accurately reflect the status of Moultrie's chart of accounts and certified those studies. In 1997, after engaging in affiliated interest transactions, Moultrie identified a disparity in the FCC's regulations, and submitted accurate cost studies to NECA that correctly reflected Moultrie's chart of accounts. NECA refused to accept Moultrie's studies, which ultimately resulted in Moultrie filing a petition for declaratory ruling, asking the FCC to rule on the application of the FCC's rules in these circumstances.

By way of background, Moultrie's management team, understanding the evolution and operating environment of small rural ILECs, directed a corporate reorganization in 1995, the purpose of which was to ensure a viable, healthy and stable company to provide technologically advanced telecommunications services to the residents of Lovington, Illinois, and the surrounding vicinity. Management perceived that the best way to compete in the telecommunications market after the passage of the 1996 Telecommunications Act was to ensure that a reasonable level of advanced technology be available to customers at a fair price, and, at the same time, make the company operations as efficient as possible. By reorganizing its business structures and segregating infrastructure, in accordance with the FCC's then-current policy purporting to require separate subsidiaries for nonregulated services, Moultrie positioned itself to reduce its operating costs and capital structure while competing in a fair and equitable manner.

Q. Would you please explain the proceeding that is pending before the FCC?

A. Although Moultrie filed its petition in March of 1999, the FCC only placed the petition on notice for public comment on February 1, 2001. NECA and two other parties submitted comments and Moultrie replied to those comments. The FCC has not yet ruled on Moultrie's petition. Consequently, Moultrie does not know whether the FCC will direct NECA to accept Moultrie's studies as they are filed.

Therefore, Moultrie has included the lost Federal support amounts in its cost report for purposes of this proceeding.

Moultrie and its consultants identified two disparities in the FCC's rules, which are the crux of Moultrie's issue with NECA. The first disparity has to do with the requirement which states that where a company leases facilities from an affiliate, for purposes of the annual cost study it is required to submit to NECA, it must essentially create a second chart of accounts, for use specifically in the preparation of the cost study, in which it must back out any affiliated interest lease expenses it has recorded in its operating chart of accounts, as if those expenses never occurred. It must also record in the second chart of accounts the net book value of the facilities leased from the affiliate. These requirements create a substantially false and fictitious chart of accounts that does not accurately represent the business activities of the regulated company. Any cost study prepared for submission to NECA is required to be submitted with a federally mandated certification that falls under Title 18 penalties. Attesting to the accuracy of the data therein, when both the attester and the requiring agency know the study is based on fraudulent data (18 USC §1346), results in the requiring agency eliciting a false official statement, and results in the attester committing what is tantamount to perjury (18 USC §1621). Moultrie has made clear, to both NECA and the FCC, its objections to such certification under these circumstances.

The second disparity Moultrie identified is pertinent to the cost study treatment of leased facilities. Moultrie has found no law or regulation requiring an ILEC to own the facilities it uses in the provision of its services. That being the case, the Part 36 separations rules have no basis in law to allow discrimination against an ILEC that leases from an affiliate. Regardless of whether the facilities a carrier leases are owned by an affiliate or a disinterested third party, the effects on the universal service pool should be transparent. Under NECA's treatment of the referenced transaction, they obviously are not. Moultrie has argued to the FCC that its rules are flawed as they discriminate against carriers that do not own their own facilities and defeat the intent of Congress as prescribed in the 1934 Communications Act and the 1996 Telecommunications Act. Furthermore, Parts 32 and 36 of the FCC's rules clearly contradict each other as one part of the rules allows a carrier to sell assets to an affiliate, while the other requires the carrier to account for the transaction as if it never occurred. Therefore, the FCC exceeded its authority by expanding the scope of the 1934 and 1996 Telecommunications Acts by promulgating regulations that have no basis in law. As stated above, Moultrie is awaiting the FCC's decision on this petition.

Q. Does Moultrie support the establishment of a Universal Service Fund in Illinois?

A. Yes, Moultrie agrees with the IITA that an Illinois Universal Service Fund is warranted. Universal Service is a complicated issue. One purpose of Universal Service is to maintain reasonably priced services for, and access to those services by, telephone customers living in high cost, low-density areas. This was accomplished initially by establishing an environment that fostered low local rates and high long distance rates. All retail rates were artificially set and controlled by either intrastate or interstate regulation. Then, as a result of artificial pricing and (minimal) competition in the local market, and robust competition in the long distance market, the ratio between local revenues and long distance revenues changed significantly. In short, a critical part of local operations funding had been buried in long distance rates, with access charges acting as an implicit subsidy mechanism. For the most part, with high interstate access rates, cost recovery for local operations was accommodated reasonably well without high local service prices.

With artificially low mandated profit rates, it has become extremely difficult, if not impossible, to maintain a financially viable small rural telephone company in the current environment. Competition has begun to enter rural markets. There is an edict to allow these competitors access to unbundled local loops and switches at a cost based upon the artificial retail pricing to end users, followed by an edict that transfers the high cost subsidy for those artificially low-priced loops to the competitors. A competitor has no appreciable investment risk, no operating capital tied up in infrastructure, and no appreciable regulatory costs. Also, a competitor has no long-term commitment to customers; if its business doesn't work out, it is able to wash its hands of the whole deal and walk away, especially if the customer point of contact is an "800" number in another town or state. This leaves the small rural independent local exchange carrier "holding the bag." Not only is the incumbent at risk of losing customers to competitors, but also, the incumbent is "required" to take those customers back at whatever cost, if the competitive local exchange carrier's experiment fails. In the meantime, the incumbent carrier is forced to maintain the local infrastructure for use by competitors.

Moultrie cannot conceive that it was, nor is, the intent of Congress to put small rural ILECs out of business. While customer base and revenue resources are drained by competition, the operations and maintenance costs and the general and administrative costs of a small company remain essentially unchanged. Further, Regional Bell Operating Companies, under price cap regulation, enjoy a much more reasonable profit margin (we estimate in the range of 19% to 23% for the regulated entity) and significantly better system density and customer density. The favorable economies of scope and scale that are derived from their large-scale operations are generally not enjoyed by small rural ILECs. In an environment where technology now evolves about once every twenty months, facilities and equipment become obsolete before the ends of their useful lives. This creates the risk that a small rural ILEC will go out of business in about three evolutions (five years), or, it will become so susceptible to competition because of its limited capabilities that new telecommunications providers will erode its customer base to the point that its financial viability approaches bankruptcy.

Add to this scenario the myriad of problems inherent in dealing with elected legislators, appointed agency officials and regulatory staffs, all of who tend in practice to operate from a cost center perspective and not a profit center perspective. Regulation adds considerably to the operating costs of private business. The cost of regulation drives up the cost of all services. Although a government agency that runs short of cash may operate on deficit spending, deficit spending as a method of operating a business enterprise is risky and can quickly lead to bankruptcy. Regulation also creates the need for cost consultants and attorneys whom the company must pay to deal with this regulatory scenario. A disproportionate cost of regulation is inflicted on small companies that are less able to absorb the added costs or, as a result of regulatory practices, to pass those costs on to its end user customers.

The small rural ILEC today is in a position similar to that of the California power companies that have recently been in the news. The retail side of the business, represented by the ILEC class of companies, is heavily regulated while the wholesale side, represented by competitive LECs and interexchange carriers, is unregulated. In addition, small rural ILECs find it extremely difficult to compete because of the inherent high costs associated with maintaining a small business that was neither designed nor envisioned to provide wholesale services (the leasing of lines and/or switching to competitors). Consequently, technological parity is extremely difficult and expensive to achieve and maintain, and a technological advantage is impossible to attain, because whatever technology is injected into the local infrastructure is forced through regulatory requirements to be provided at a wholesale price to whatever competitor emerges. The rural ILEC is open to competition regardless of whether there is system density or customer density to support a competitive environment.

The ICC could alleviate some of the economic stress on rural ILECs by forming a universal service fund that allows for full recovery of the ILECs' costs of providing service in the current competitive environment. As explained above, Moultrie has structured its company in a way to provide quality services to its rural customers and to compete on an equal footing with its competitors. An Illinois fund to ensure full recovery of rural ILECs' costs of providing service is in the public interest.

Q. Does that conclude your Direct Testimony in behalf of Moultrie Independent Telephone Company?

A. Yes, it does. Thank you for allowing Moultrie to provide its views.

Moultrie Independent Telephone Company
Illinois Universal Service Funding Calculation
Based upon ICC Form 23A Report Data for December 31, 2000

Line#	Description	Source	Amount	Adjustment	Adjusted Amount
1	Net Regulated Plant	Form 23A, P 8, Net Plant	$ 465,723	$ -	$ 465,723
2	Materials and Supplies Inventory	Page 2, 13-Month Average	59,992		59,992
3	Customer Deposits	Form 23A, P 8, 4040	-	-	-
4	ADIT - Regulated Plant	Form 23A, P 8, 4100 + 4340	(84,339)	-	(84,339)
5	Rate Base before Working Capital	line 1 + line 2 - line 3 - line 4			610,054
6	Working Capital Requirement				
7	Total Operating Expenses	Form 23A, P 14, Total	1,731,452	-	1,731,452
8	Less: Depreciation Expense	Form 23A, P 13, 6560	175,221	-	175,221
9	Total WC Operating Expense	line 7 - line 8	1,556,231	-	1,556,231
10	WC OE Requirement	line 9 * 45 / 360			194,529
11	Commission-Ordered Cash Balance Requirement		-	-	-
12	Total Working Capital Requirement	line 10 + line 11			194,529
13	Total Rate Base	line 5 + line 12			804,583
14	Total Operating Revenues	Form 23A, P 11, Total	1,899,191	(233,290)	1,665,901
15	Less: Illinois High Cost Fund		513,300	-	513,300
16	Net Operating Revenues	line 14 - line 15	1,385,891	(233,290)	1,152,601
17	Total Operating Expenses	Form 23A, P 14, Total	1,731,452	-	1,731,452
18	Other Operating Inc and Exp - Net	Form 23A, P 15, 7100	-	-	-
19	Other Operating Taxes	Form 23A, P 15, 7240	1,570	-	1,570
20	Net Op Inc before Income Taxes	line 16 - lines 17, 18, & 19	(347,131)	(233,290)	(580,421)
21	Income Tax Expense	line 34			(224,848)
22	Net Operating Income	line 20 - line 21			(355,573)
23	Return on Rate Base	line 22 / line 13			-44.19%
24	After-tax Cost of Capital				11.21%
25	Target Net Operating Income	line 24 * line 13			90,194
26	Adj to Achieve Target Return on RB	line 25 - line 22			445,767
27	Gross Revenue Conversion Factor	line 35			1.6324
28	ROR Funding Deficiency Including Inc Taxes	line 26 * line 27			**727,670**
29	Calculation of Income Tax Expense				
30	Net Op Inc before Inc Taxes	line 20			(580,421)
31	Illinois Inc & Rep Tax Expense	line 30 * 7.18%			(41,674)
32	Net Op Inc before Fed Inc Tax	line 30 - line 31			(538,747)
33	Federal Income Tax Expense	line 32 * 34.00%			(183,174)
34	Total Imputed Income Tax Expense	line 31 + line 33			(224,848)
35	Gross Revenue Conversion Factor	1 / ((1 - .0718) * (1 - .34))			1.6324

Note for Staff: Neither of the two choices in either the "Sale/Lease Back Arrangement" or the "Lease Agreement With Affiliates" sections above were crafted in a manner concise enough for purposes of testimony and/or supporting documentation to afford Moultrie the opportunity to provide precisely accurate responses by selecting any of the options. In other words, Moultrie believes these declarations, if assented to as written, could potentially be proved to be false upon cross examination. Further, Moultrie's investigation into the course of events leading up to the inclusion of these sections in the Schedule 1.01 yielded that staff and the "Schedule 1.01 Negotiating Committee" of the IITA apparently agreed upon the text of the options without the benefit of review and approval by IITA's counsel, or any IITA member's counsel, such that assurances could be made to individual IITA member companies that the verbiage in at least one of the options in each section accurately described the circumstances of each member.

In point of fact, Moultrie believes it does not now have a sale/lease back "arrangement." However, for the duration of the 1/1/97-12/31/98 time period, it may reasonably be construed that Moultrie did have a sale/lease back "arrangement," depending upon the definition to be attributed to "arrangement." Moultrie was not willing to commit to the first option due to the potential inference that it might be attempting to mislead staff. Two contracts were previously submitted under separate cover which document that "arrangement." Moultrie InfoComm, the lessor for that two year period, has subsequently sold the assets to another of its affiliates , 111 Internet Services, Inc., from which Moultrie is now leasing facilities under the same general terms and conditions as in the previous lease. The lease contract covering that agreement is provided herewith in its unsigned e-document form as an additional attachment. An executed hardcopy version will be provided under separate cover.

Moultrie Independent Telephone Company
Illinois Universal Service Funding Calculation
Based upon ICC Form 23A Report Data for December 31, 2000
Material & Supplies Worksheet and Other Information

Line #		
1	December-99	$60,904
2	January-00	$60,920
3	February-00	$60,919
4	March-00	$60,743
5	April-00	$60,813
6	May-00	$60,287
7	June-00	$60,284
8	July-00	$60,216
9	August-00	$59,096
10	September-00	$58,886
11	October-00	$58,876
12	November-00	$58,755
13	December-00	$59,202
14	13 Month Average	$59,992

Sale/Lease Back Arrangement

- [ ] The company does not have any sale(s)/lease back arrangement.
- [ ] The company does have sale(s)/lease back arrangement and has provided additional information to staff.

Lease Agreement with Affiliates

- [ ] The company does not have any lease agreements with affiliates.
- [ ] The company does have lease agreements with affiliates and has provided additional information to staff.

Trial Balances

The Company has provided a copy of its 12/31/2000 trial balance in support of the attached exhibits.

(Note for Staff: Contained on next page)

Dockets Nos. 00-0233 00-0335 (Consolidate)
"Moultrie Independent Telephone Company" Exhibit 1
Schedule 1.01

Moultrie Independent Telephone Company
Illinois Universal Service Funding Calculation
Based upon ICC Form 23A Report Data for December 31, 2000
Operating Revenues By Category

Line #		Source		Amount
1	Local Revenues	Form 23A, P 10, Total Local Network Service Revenues	$	124,689
2	State Subscriber Line Charges	Trial Balance 12/31/00	$	98,711
3	State Access Revenues	Trial Balance 12/31/00	$	418,610
4	State High Cost Support	Exhibit X, Line 15	$	513,300
5	State Special Access Revenues	Trial Balance 12/31/00	$	22,552
6	Total State Access & Local Revenues	Sum (Ln 1 - 5)	$	1,177,862
7	Federal Subscriber Lines Charges	Trial Balance 12/31/00	$	39,116
8	Federal Access Revenues	Trial Balance 12/31/00	$	246,853
9	Federal High Cost Support	Trial Balance 12/31/00	$	312,592
10	Federal Special Access Revenues	Trial Balance 12/31/00	$	107,678
11	Total Federal Access Revenues	Sum (Ln 7 - 10)	$	706,239
12	Misc Revenues	Trial Balance 12/31/00	$	15,090
13	Total Operating Revenues	Ln 6 + Ln 11 + Ln 12	$	1,899,191